
PRELIMINARY DRAFT
No. 3264

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2006 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 29-1-8.

Synopsis: Small estates. Increases the maximum gross value of a probate estate that may be settled without court administration from \$25,000 to \$50,000. Provides that a claimant who is seeking payment of a debt owed to a decedent or seeking to obtain personal property or an instrument evidencing a debt, an obligation, a stock, or a chose in action belonging to the decedent must include in the affidavit that the claimant submits to the debtor or person possessing the personal property or instrument: (1) the name and address of each other person entitled to a share of the property; and (2) a statement that the claimant has notified each other person identified in the affidavit of the claimant's intention to present the affidavit.

Effective: July 1, 2006.



A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 29-1-8-1 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Forty-five (45) days after the
death of a decedent and upon being presented an affidavit that complies
with subsection (b), a person:

- (1) indebted to the decedent; or
- (2) having possession of personal property or an instrument
evidencing a debt, an obligation, a stock, or a chose in action
belonging to the decedent;

shall make payment of the indebtedness or deliver the personal
property or ~~an~~ the instrument evidencing a debt, an obligation, a stock,
or a chose in action to a person claiming to be entitled to payment or
delivery of property of the decedent.

(b) The affidavit required by subsection (a) must be an affidavit
made by or on behalf of the claimant ~~stating that~~ **and must state the
following:**

(1) **That** the value of the gross probate estate, wherever located
(less liens and encumbrances), does not exceed ~~twenty-five~~ **fifty**
thousand dollars ~~(\$25,000); (\$50,000).~~

(2) **That** forty-five (45) days have elapsed since the death of the
decedent.

(3) **That** no application or petition for the appointment of a
personal representative is pending or has been granted in any
jurisdiction. ~~and~~

(4) **The name and address of each other person that is entitled
to a share of the property and the portion of the property to
which each person is entitled.**

(5) **That the claimant has notified each person identified in the
affidavit of the claimant's intention to present an affidavit
under this section.**

~~(4)~~ (6) **That** the claimant is entitled to payment or delivery of the
property **on behalf of each person identified in the affidavit.**



(c) If a motor vehicle or watercraft (as defined in IC 9-13-2-198.5) is part of the estate, nothing in this section shall prohibit a transfer of the certificate of title to the motor vehicle if five (5) days have elapsed since the death of the decedent and no appointment of a personal representative is contemplated. A transfer under this subsection shall be made by the bureau of motor vehicles upon receipt of an affidavit containing a statement of the conditions required by subsection (b)(1) and ~~(b)(4)~~: **(b)(6)**. The affidavit must be duly executed by the distributees of the estate.

(d) A transfer agent of a security shall change the registered ownership on the books of a corporation from the decedent to a claimant upon the presentation of an affidavit as provided in subsection (a).

(e) For the purposes of subsection (a), an insurance company that, by reason of the death of the decedent, becomes obligated to pay a death benefit to the estate of the decedent is considered a person indebted to the decedent.

(f) For purposes of subsection (a), property in a safe deposit box rented by a decedent from a financial institution organized or reorganized under the law of any state (as defined in IC 28-2-17-19) or the United States is considered personal property belonging to the decedent in the possession of the financial institution.

SECTION 2. IC 29-1-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) If it appears that the value of a decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of:

- (1) ~~twenty-five~~ **fifty** thousand dollars ~~(\$25,000)~~; **(\$50,000)**;
- (2) the costs and expenses of administration; and
- (3) reasonable funeral expenses;

the personal representative or a person acting on behalf of the distributees, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled to it and file a closing statement as provided in section 4 of this chapter.

(b) If an estate described in subsection (a) includes real property, an affidavit may be recorded in the office of the recorder in the county in which the real property is located. The affidavit must contain the following:

- (1) The legal description of the real property.
- (2) The following statement: "It appears that the decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of the following: ~~twenty-five~~ **fifty** thousand dollars ~~(\$25,000)~~; **(\$50,000)**, the costs and expenses of administration, and reasonable funeral expenses."
- (3) The name of each person entitled to at least a part interest in the real property as a result of a decedent's death, the share to which each person is entitled, and whether the share is a divided



or undivided interest.

(4) A statement which explains how each person's share has been determined.

SECTION 3. IC 29-1-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative or a person acting on behalf of the distributees may close an estate administered under the summary procedures of section 3 of this chapter by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

(1) to the best knowledge of the personal representative or person acting on behalf of the distributees the value of the gross probate estate, less liens and encumbrances, did not exceed the sum of:

(A) ~~the allowance, if any, provided by IC 29-1-4-1;~~ **fifty thousand dollars (\$50,000);**

(B) the costs and expenses of administration; and

(C) reasonable funeral expenses;

(2) the personal representative or person acting on behalf of the distributees has fully administered the estate by disbursing and distributing it to the persons entitled to it; and

(3) the personal representative or person acting on behalf of the distributees has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom ~~he~~ **the personal representative or person acting on behalf of the distributees** is aware and has furnished a full account in writing of ~~his~~ **the** administration to the distributees whose interests are affected.

(b) If no actions, claims, objections, or proceedings involving the personal representative or person acting on behalf of the distributees are filed in the court within three (3) months after the closing statement is filed, the appointment of the personal representative or the duties of the person acting on behalf of the distributees terminate.

(c) A closing statement filed under this section has the same effect as one (1) filed under IC 29-1-7.5-4.

(d) A copy of any affidavit recorded under section 3(b) of this chapter must be attached to the closing statement filed under this section.

SECTION 4. IC 29-1-8-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.5. The person claiming to be entitled to payment or delivery of the property belonging to the decedent may present to the court having jurisdiction over **the** decedent's estate an affidavit containing a statement of the conditions required under ~~subdivisions (1) through (4) of section 1(a)~~ **section (1)(b)** of this chapter. Upon receipt of the affidavit, the court may, without notice and hearing, enter an order that the claimant is entitled



1 to payment or delivery of the property.

2 SECTION 5. [EFFECTIVE JULY 1, 2006] IC 29-1-8-1,
3 IC 29-1-8-3, IC 29-1-8-4, and IC 29-1-8-4.5, all as amended by this
4 act, apply to the estate of an individual who dies after June 30,
5 2006.

